

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SOUTHEAST FLOATING DOCKS, INC.,

Plaintiff,

CIVIL ACTION
NO.:

v.

AGM MARINE CONTRACTORS, INC.,
CHILDS ENGINEERING CORPORATION
and THE TOWN OF PROVINCETOWN,

Defendant.

05 - 11039 EFH

MAGISTRATE JUDGE *Alexander*

**COMPLAINT TO STAY ARBITRATION PROCEEDING AND ENFORCE
ARBITRATION SUBPOENAS**

Plaintiff, Southeast Floating Docks, Inc. ("Southeast"), for its complaint against
Defendants AGM Marine Contractors, Inc. ("AGM"), Childs Engineering Corporation ("Childs")
and The Town of Provincetown ("Provincetown"), states:

PRELIMINARY STATEMENT

1. This action is brought by Southeast to stay an arbitration proceeding and enforce subpoenas issued by Arbitrator Anthony Cipriani ("the Arbitrator") in furtherance of an arbitration conducted under the auspices of the American Arbitration Association ("the Arbitration"). AGM was served with a request for production of documents and has failed to produce them despite being ordered to do so. Childs and Provincetown were properly served with the arbitrator's subpoenas, but have failed to comply with the command of the arbitrator to provide the records. The arbitration is presently scheduled to commence on June 20, 2005, and therefore, a stay is necessary to allow Southeast an opportunity to obtain the documents necessary to defend the claims made against it in the Arbitration.

RECEIVED # 358 29/10
SUMMONS ISSUED X-3
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DPTY. CLK. M
DATE 5-18-05

JURISDICTION AND VENUE

2. This action is brought pursuant to the Federal Arbitration Act ("FAA"), 9 U.S.C. § 7, which authorizes Plaintiff to petition a United States District Court to compel or punish Defendants for refusing to obey subpoenas issued by the Arbitrator.

3. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332 absent the FAA given diversity of citizenship and the amount in controversy exceeds \$75,000.00.

4. Pursuant to 9 U.S.C. § 7, this matter is properly venued in this Court as it is the judicial district in which the Arbitrator is sitting.

PARTIES

5. Southeast is a Florida corporation with its principal place of business in St. Augustine, Florida.

6. AGM is a Massachusetts corporation with its principal place of business in 30 Echo Road, Mashpee, Massachusetts.

7. Childs is a Massachusetts corporation with its principal place of business in 541 Main Street, Medfield, Massachusetts.

8. Provincetown is a municipality as organized under Chapter 40 of the general laws of Massachusetts with a principal place of business at 260 Commercial Street, Provincetown, Massachusetts.

GENERAL ALLEGATIONS

9. AGM contracted with Southeast to manufacture concrete floating docks for use at the Provincetown marina project. The contract contained a provision that all disputes would be submitted to binding arbitration. On October 29, 2004, AGM demanded arbitration alleging floating docks provided by Southeast were defective and required replacement. A true and

accurate copy of the demand for arbitration with the relevant contract language is attached as Exhibit "A."

10. The dispute arose following the partial destruction of the floating docks following a winter storm event on December 6 and 7, 2003.

11. In a public meeting following the storm event, members of the Provincetown Public Pier Corporation attributed the failure of the floating docks to a design flaw; in particular the wave attenuator that was recommended was never installed. Provincetown hired Childs to determine how the damage to the floating docks occurred and the cause. The investigation by Childs occurred immediately following the storm event and the conditions existing at that time cannot be replicated. The damaged docks and related accouterments were removed from the harbor and a temporary docking system installed. The findings and observations made at or near the time of the storm event and thereafter are not available from any other source.

12. Childs completed its investigation and issued a report, which was used and relied upon by Provincetown and AGM in entering into a settlement agreement. Despite reliance on the agreement, AGM refuses to produce the report in the arbitration proceeding.

13. Provincetown shared the Childs' report with its engineer of record, Fay, Spofford & Thorndike, Inc. ("FS&T"). While FS&T maintains that it does not have a copy of the report, it does claim to have seen the report and states it finds no design error. A finding of no design error coupled with AGM's expert's report concluding the floating docks were manufactured in accordance with the project specifications is a complete defense to the claims against Southeast.

14. Despite Provincetown's reliance of the Childs' report and sharing with third parties, it refuses to produce the report pursuant to a subpoena issued by Arbitrator Cipriani. A true and accurate copy of the subpoena is attached as Exhibit "B." Provincetown's failure to

provide a copy of the report also violates Massachusetts's public records law. Mass. Gen. Laws ch. 4, § 7, cl. (26).

15. Provincetown also directed Childs not to produce the report in complying with its subpoena issued by Arbitrator Cipriani. A true and accurate copy of the Childs subpoena is attached as Exhibit "C."

16. In his May 9, 2005 Order, Arbitrator Cipriani required Respondent to seek enforce of its subpoenas if AGM and the third parties did not voluntarily comply.

17. The subpoenas issued by Arbitrator Cipriani and served on Provincetown and Childs are valid and enforceable under Federal law.

18. Provincetown and Childs willfully and knowingly disregarded the command of the subpoenas.

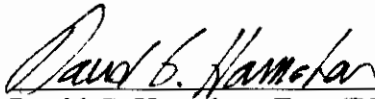
19. Southeast is entitled to recover its reasonable attorney's fees and costs from AGM in having to compel it to provide the report and against Provincetown for its complete failure to comply with the subpoena and public records law.

WHEREFORE, Plaintiff prays that the Court issue the following relief:

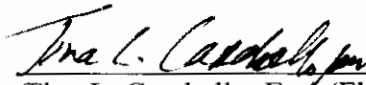
1. That the Court issue a short order of notice to the Defendants for them to show cause why the arbitration should not be stayed and why Arbitrator Cipriani's subpoenas should not be complied with;
2. That the Court schedule a hearing on the merits within 14 days on Southeast's Complaint at which time Defendants' answers shall be filed;
3. That the Court issue a stay of the Arbitration pending a hearing and decision on Southeast's Complaint;

4. That after a hearing, the Court order the Defendants to comply with the Arbitrator's subpoenas and orders, including but not limited to the production of the Childs report,
5. That the Court issue contempt citations and any other relief as is necessary; and
6. That the Court award Southeast its reasonable attorneys' fees and costs in having to file this Complaint.

SOUTHEAST FLOATING DOCKS, INC.,
By its attorneys,



David G. Hanrahan, Esq. (BBO # 220580)
Richard D. Vetstein, Esq. (BBO # 637681)
GILMAN, MCLAUGHLIN & HANRAHAN, LLP
P.O. Box 9601
101 Merrimac Street
Boston, Massachusetts 02114-9601
Telephone: 617-227-9999
Facsimile: 617-227-7177



Tina L. Caraballo, Esq. (Fla. Bar No. 0164275)¹
Rosemary H. Hayes, Esq. (Fla. Bar. No. 549509)²
Hayes & Caraballo, P.L.
PO Box 547248
Orlando, FL 32854

Dated: May 18, 2005

¹ (admission *pro hac vice* pending)

² (admission *pro hac vice* pending)

American Arbitration Association

CONSTRUCTION INDUSTRY ARBITRATION RULES

DEMAND FOR ARBITRATION

MEDIATION If you want the AAA to contact the other party and attempt to arrange a mediation, please check this box. ☐

TO: Name of Respondent Southeast Floating Docks, Inc.			Name of Representative (if known) Rosemary Hayes, Esq.		
Address 1920 Dobbs Road			Address Hayes & Caraballo 3117 Edgewater Drive		
City St. Augustine	State FL	Zip Code 32086	City Orlando	State FL	Zip Code 32804
Phone No. 904-825-3625	Fax No. 904-825-1556		Phone No. 407-649-9974	Fax No. 407-649-9379	

THE NAMED CLAIMANT, A PARTY TO A WRITTEN AGREEMENT PROVIDING FOR ARBITRATION UNDER THE CONSTRUCTION INDUSTRY ARBITRATION RULES, HEREBY DEMANDS ARBITRATION THEREUNDER.
(ATTACH THE ARBITRATION CLAUSE)

NATURE OF DISPUTE (Please give enough details to enable the AAA to select arbitrators with appropriate experience)

Concrete floating docks system provided by supplier was defective and requires replacement.

DOLLAR AMOUNT OF CLAIM \$ 250,000.00 for costs to date	OTHER RELIEF SOUGHT Order that supplier is responsible for costs incurred by Claimant due to claim by owner for such failures.
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PLEASE DESCRIBE APPROPRIATE QUALIFICATIONS FOR ARBITRATOR(S) TO BE APPOINTED TO HEAR THIS DISPUTE

Construction Attorney

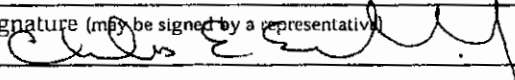
CLAIMANT IS
☐ Owner ☐ Design Professional (specify _____) ☒ Contractor
☐ Subcontractor (specify _____) ☐ Other (specify _____)

RESPONDENT IS
☐ Owner ☐ Design Professional (specify _____) ☐ Contractor
☒ Subcontractor (specify _____) ☒ Other (specify Supplier)

ESTIMATED TIME NEEDED FOR HEARINGS OVERALL _____ hours 3 days

Copies of this demand are being filed with the American Arbitration Association at its Providence office.
 Claimant requests that the AAA commence the administration of the arbitration. Under the rules, you may file an answering statement within fifteen days after notice from the AAA.

CLAIMANT REQUESTS THAT ARBITRATION HEARINGS BE HELD AT THE FOLLOWING LOCALE
Barnstable, MA

Signature (may be signed by a representative) 	Title Attorney	Date 10/12/04
--	--------------------------	-------------------------

Name of Claimant AGM Marine Contractors, Inc.			Name of Representative Charles E. Schaub, Jr.		
Address 30 Echo Road			Address Hinckley, Allen & Snyder LLP 28 State Street		
City Mashpee	State MA	Zip Code 02649	City Boston	State MA	Zip Code 02109
Phone No. 508-477-8801	Fax No. 508-477-8804		Phone No. 617-345-9000	Fax No. 617-345-9020	

TO INSTITUTE PROCEEDINGS, PLEASE SEND THREE COPIES OF THIS DEMAND AND THE ARBITRATION AGREEMENT, WITH THE FILING FEE, AS PROVIDED FOR IN THE RULES, TO THE AAA. SEND THE ORIGINAL DEMAND TO THE RESPONDENT.

Received Fax : Mar 14 2003 14

Fax Station : Haver & Associates

15

03/13/2003 12:44 9048251556

SOUTHEAST FLOATING

PAGE 15



PILE CAPS 37 EACH WHITE FRP PILE CAPS.

SHOP DRAWINGS INCLUDED

ENGINEERING INCLUDED.

* FREIGHT MASS FREIGHT, ON BOARD, PREPAID TO YOUR JOB SITE IN PROVINCETOWN, MASS.

EXCLUDED ITEMS:

ALL PERMITS AND LICENSES.

ALL MECHANICAL SYSTEMS EXCEPT AS SPECIFICALLY INCLUDED ABOVE.

* JOB SITE OFF LOADING.

* ALL PILE AND PILE INSTALLATION.

* DOCK INSTALLATION, DOCK BOXES, POWER PEDESTALS.

* SOIL BORINGS AND WIND AND WAVE STUDY, IF REQUIRED.

WARRANTY: SELLER WARRANTS THAT UNDER INTENDED USE, SOUTHEAST FLOATS SHALL BE FREE OF DEFECTS IN MATERIALS AND WORKMANSHIP FOR A PERIOD OF ONE YEAR FROM DATE OF SHIPMENT, PROVIDED THAT SOUTHEAST FLOATS COMPONENTS BE KEPT FROM EXPOSURE TO WAVE HEIGHTS EXCEEDING ENGINEERING LIMITS SPECIFIED BY SOUTHEAST FLOATS ENGINEER AND APPROVED BY ENGINEER OF RECORD. SELLER'S SOLE LIABILITY IS LIMITED TO REPLACEMENT OF DEFECTIVE MATERIALS ONLY. IN NO EVENT SHALL THE SELLER BE HELD RESPONSIBLE FOR ANY MALFUNCTION CAUSED UNDER CIRCUMSTANCES EXCEEDING ABOVE CONDITIONS. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED.

INDEMNIFICATION: THERE SHALL BE NO RIGHTS OF INDEMNIFICATION BY SELLER TO BUYER BEYOND THAT SCOPE OF WARRANTY SET FORTH ABOVE. BUYER SHALL INDEMNIFY AND HOLD HARMLESS SELLER AND ITS AGENTS AND EMPLOYEES FROM CLAIMS, DEMANDS, CAUSES OF ACTION AND LIABILITIES OF EVERY KIND AND NATURE WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH THE BUYER'S OPERATIONS AS PERFORMED BY THE BUYER.

DISPUTES: IN THE EVENT OF ANY DISPUTE BETWEEN BUYER AND SELLER, THE PARTIES HERETO AGREE TO SUBMIT SAME TO BINDING ARBITRATION PURSUANT TO THE CONSTRUCTION INDUSTRY RULES OF THE AMERICAN ARBITRATION. SAID ARBITRATION SHALL BE CONDUCTED IN THE REGIONAL OFFICE OF THE AMERICAN ARBITRATION ASSOCIATION LOCATED IN THE COUNTY OR STATE WHERE THE WORK IS TO BE PERFORMED, BARNSTABLE COUNTY, MA.

* **CAUTION:** FLOAT SYSTEMS ARE UNSTABLE WHEN PLACED IN WATER PRIOR TO ASSEMBLY IN THEIR FINAL INTENDED CONFIGURATION. MODULES OR SUBASSEMBLIES SHOULD NEVER BE STOOD OR WALKED UPON PRIOR TO FINISHED ASSEMBLY.

APPLICABLE LAWS: THE LAWS OF THE STATE OF FLORIDA SHALL GOVERN THE VALIDITY, INTERPRETATION, AND ENFORCEMENT OF THIS PROPOSAL, AND ANY CONTRACT RESULTING THEREFROM. THE SITES FOR ANY ARBITRATION OR VENUE FOR ANY LITIGATION ARISING OUT OF THIS AGREEMENT SHALL BE BARNSTABLE COUNTY, MA.

**The Arbitration Tribunals of the
American Arbitration Association**

In the Matter of the Arbitration between

AGM Marine Contractors, Inc.

v.

Southeast Floating Docks, Inc.

**Subpoena Duces Tecum
(Documents)**

FROM THE PEOPLE OF THE STATE OF MASSACHUSETTS

THE TOWN OF PROVINCETOWN, MA
to Town Hall
260 Commercial Street
Provincetown, MA 02657

GREETING:

WE COMMAND YOU that, all business and excuses being laid aside, you and each of you appear
and attend before

Produce all records shown on exhibit "A" within 30-days

, arbitrator(s)

acting under the arbitration law of this state, at

the Town Hall, or alternatively, by U.S. Mail to the requesting attorney below. Copy costs and postage will be paid.

(address)

on the _____ day of _____, 20____, at _____ o'clock, to testify and
give evidence in a certain arbitration, then and there to be held between the above entitled parties, and
that you bring with you and produce certain

now in your custody.

Signed: _____

Signed: _____

Arbitrator(s)

Requested by: Southeast Floating Docks, Inc.

Rosemary Hayes, Esq.

Name of Representative

830 Lucerne Terrace

Address Orlando, FL 32801

Zip Code

Telephone

Dated: January 28, 2004

EXHIBIT "A"

Pursuant to M.G.L. 66, § 10, and this subpoena we request copies relating to the storm damage on December 7, 2003 (a) all written demands made by or on behalf of the town in regard to MacMillan Pier under M.G.L. 93A and any responses thereto; (b) all written or printed communications, including electronic transmissions and computer stored data relating to or referencing damage at MacMillan Pier from December 1, 2003 to the present; (c) all demands for insurance coverage and responses thereto; (d) proof of wind speed, wind direction, wave height, or any expert opinion or documentation used to establish same; (e) all communications from the Town to AGM or its Surety since December 7, 2003, including electronic mail or other computer stored data; (f) all records concerning modification of the dock system during construction, installation of the concrete floating docks, and removal of the wave attenuator or "breakwater" from the original project design; (g) all expert opinions, reports, calculations, drawings, or other written, printed or pictorial material, including electronic mail or other computer stored data, relating to or referencing the damage and fix of the dock system at the subject marina.

AMERICAN ARBITRATION ASSOCIATION

AGM MARINE CONTRACTORS, INC.

SOUTHEAST FLOATING DOCKS, INC.

RETURN OF SERVICE

I RONALD CHEVALIER, being duly sworn, depose and say, I have been duly authorized to make service of the document(s) listed herein in the above captioned case. I am over the age of 18, and am not a party to or otherwise interested in this matter.

For: Rosemary H. Hayes

Date Received: 2/9/2005 2:00 PM

Document(s): Subpoena Duces Tecum

Serve To: THE TOWN OF PROVINCETOWN, MA

Address: TOWN HALL, 260 COMMERCIAL ST., PROVINCETOWN, MA 02657

Date Served: 2/23/05 Time Served: 9:40 AM/PM

Method of Service: ☒ Individual ☐ Substitute ☐ Corporate ☒ Govt. Agency ☐ Posted ☐ Other ☐ Non-Served (explain)

Person Served: BILL SCHNEIDER Capacity: AGENT IN CHARGE

Address: 260 COMMERCIAL ST PROVINCETOWN MA 02657

Military Status: ☒ N/A ☐ Not in Military ☐ Active Duty Military

Comments: _____

Under penalties of perjury, I declare that I have read the foregoing Return of Service and that the facts stated in it are true. Notary not required pursuant to F.S. 92.525

RONALD CHEVALIER

R O O O O
(Sign and Print Name)

Executed On 2/23/05

Timely Services/Magic Process
P.O. Box 951828
Lake Mary, FL 32795-1828
(407) 925-5977

ID: 7412

Client Reference: None

**The Arbitration Tribunals of the
American Arbitration Association**

In the Matter of the Arbitration between

AGM Marine Contractors, Inc.

v.

Southeast Floating Docks, Inc.

**Subpoena Duces Tecum
(Documents)**

FROM THE PEOPLE OF THE STATE OF MASSACHUSETTS

Childs Engineering Corporation
to 541 Main Street
Medfield, MA 02052

GREETING:

WE COMMAND YOU that, all business and excuses being laid aside, you and each of you ~~appear~~
~~and attend before~~

Produce all records shown on exhibit "A" within 15-days

, arbitrator(s)

acting under the arbitration law of this state, at

your offices, or alternatively, by U.S. Mail or Federal Express to the requesting attorney below. Copy costs and postage or Federal Express will be paid.

(address)

on the _____ day of _____, 20____, at _____ o'clock, to testify and
give evidence in a certain arbitration, then and there to be held between the above entitled parties, and
that you bring with you and produce certain

now in your custody.

Signed: _____

Signed: _____

Arbitrator(s)

Requested by: Southeast Floating Docks, Inc.

Rosemary Hayes, Esq.

Name of Representative

830 Lucerne Terrace

Address

Orlando, FL 32801

Zip Code

Telephone

Dated: April 5, 2005

EXHIBIT A
(Childs Engineering Corporation)

All correspondence, electronic mail, letters, memorandums, reports, videos, photographs, wind, wave, and weather data, or other communications with AGM Marine Contractors and/or Provincetown, its agents, attorneys, elected officials, engineers, representatives, and assigns regarding the investigation into the failure of the floating dock system at McMillan Pier in Provincetown, Massachusetts, after the December 6-7, 2003 storm event.

NOTE: Please direct any questions concerning the requested documents to Rosemary H. Hayes, 407-649-9974 ext. 214 or via e-mail at rhayes@const-law.com. Please call our office for the federal express account number to facilitate receipt of the requested documents. Thank you for your assistance.

AMERICAN ARBITRATION ASSOCIATION

AGM MARINE CONTRACTORS, INC.

SOUTHEAST FLOATING DOCKS, INC.

RETURN OF SERVICE

I ROBERT S. WINTHROP, being duly sworn, depose and say, I have been duly authorized to make service of the document(s) listed herein in the above captioned case. I am over the age of 18, and am not a party to or otherwise interested in this matter.

For: Rosemary H. Hayes

Date Received: 4/12/2005 2:00 PM

Document(s): Subpoena Duces Tecum

Serve To: CHILDS ENGINEERING CORPORATION

Address: 541 MAIN ST., MEDFIELD, MA 02052

Date Served: 4/15/05 Time Served: 2 ~~PM~~/PM

Method of Service: ☐ Individual ☐ Substitute ☒ Corporate ☐ Govt. Agency ☐ Posted ☐ Other ☐ Non-Served (explain)

Person Served: CRAIG D. SAMS I.P.E. Capacity: V. Pres

Address: _____

Military Status: ☒ N/A ☐ Not in Military ☐ Active Duty Military

Comments: _____

Under penalties of perjury, I declare that I have read the foregoing Return of Service and that the facts stated in it are true. Notary not required pursuant to F.S. 92.525

Robert S. Winthrop
(Sign and Print Name)

Executed On 4/15/05

Timely Services/Magic Process
P.O. Box 951828
Lake Mary, FL 32795-1828
(407) 925-5977

Robert S. Winthrop, Constable
P. O. Box 255
East Walpole, MA 02032

Service Fee: \$90.00
ID: 8481
Client Reference: None

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Southeast Floating Docks, Inc.

(b) County of Residence of First Listed Plaintiff St. Johns, FL
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Gilman, McLaughlin & Hanrahan, LLP
101 Merrimac Street, Suite 800
P.O. Box 9601, Boston, MA 02114-9601
617-227-9999

DEFENDANTSAGM Marine Contract **APPENDIX B. CIVIL COVER SHEET**

Provincetown, Childs Engineering Corp.

County of Residence of First Listed Barnstable
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 DEF Incorporated or Principal Place of Business in This State ☐ 4 ☒ 4 DEF
- Citizen of Another State ☐ 2 ☐ 2 DEF Incorporated and Principal Place of Business in Another State ☒ 5 ☐ 5 DEF
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 DEF Foreign Nation ☐ 6 ☐ 6 DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Complaint to stay arbitration and enforce subpoenas under 9 U.S.C. sec. 7

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 N/A

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE Hon. Edward F. Harrington DOCKET NUMBER 04-11382 EFH

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

APPENDIX C LOCAL COVER SHEET

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Southeast Floating Docks, Inc. v. AGM Marine Contractors, Inc.

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

___ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

___ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases

X III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

___ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

___ V. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

American Home Assurance Co. v. AGM Marine Contractors, Inc. # 0411382 EFH

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES ☐ NO ☒

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES ☐ NO ☒

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES ☐ NO ☒

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES ☐ NO ☒

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES ☐ NO ☒

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION ☐ CENTRAL DIVISION ☐ WESTERN DIVISION ☐

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION ☒ CENTRAL DIVISION ☐ WESTERN DIVISION ☐

(PLEASE TYPE OR PRINT)

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